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CENTRAL FAX CENTER

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

AUG 24 2006

**In re application of: Burnett Davis**

**Serial No: 10/60,3020**

**For: Container Transporter Device**

**Examiner: Gregory Adams**

**Office Action Dated 3/24/2006**

**CLAIMS**

1. (currently amended) A hand cart for lifting and transporting a container with a tapering neck at its upper end, the hand cart comprising: a base frame having at least one wheel means for movement; a cradle for engaging the bottom of the container, the cradle being supported by the base frame; an elongated bar being defined by an upper end and a lower end; the lower end being securely attached to the base frame and the cradle; an arm structure being defined by a first edge, an opposite second edge, a side edge, an opposing side edge, and an upper surface overlaying an underside portion; the first edge being mounted to the exterior of the bar at an intermediate point, the intermediate point being at a position relative to the height of the container from the base frame, the arm structure extending outwardly from the first edge along its horizontal axis to a set distance to the opposite second edge; a bumper mechanism integrated into the opposite second edge at the set distance therein, the bumper mechanism for contacting the neck of the container causing the container to tilt forward as the container is loaded slid onto the base frame; a catch mechanism situated a predetermined distance from the opposite second edge within the arm structure; a means for engaging and

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members each having an upper and lower end; a grip member connected to each upper end; and each lower end mounted upon the upper end of the bar member.

5. (original) The handcart of claim 1 wherein the means for engaging and disengaging the catch mechanism further comprises: a lever mechanism situated at the upper end of the bar; and the lever operably connected through the interior of the bar to the first edge of the arm structure; the first edge of the arm structure being partially slideably mounted upon the exterior of the elongated bar wherein the lever mechanism can vertically lower and lift the arm structure to respectively engage and disengage the catch mechanism with the top of the container.

6. (original) The handcart of claim 1 wherein the cradle is dimensioned to fit the bottom of the container.

7. (original) The handcart of claim 6 wherein the base frame further comprises: a rigid vertical plate member and a rigid horizontal plate member; the horizontal plate member being aligned perpendicular to the vertical plate member; and the cradle being supported by the horizontal plate member; and the vertical plate member being securely coupled to the cradle and the bar member.

8. (original) The handcart of claim 6 wherein the base frame further comprises: a rigid horizontal plate member; the cradle being supported by the horizontal plate member; and the cradle being securely coupled to the bar member.

disengaging the catch mechanism with the top of the container; and a hand assembly being mounted upon the upper end of the bar such that the hand-cart can be moved into a forward and backward position upon the wheel means.

2. (currently amended) The handcart of claim 1 wherein the catch mechanism further comprises: a internal cavity, situated within the underside portion of the arm structure; the ~~recesses~~ internal cavity, dimensioned to accommodate the circumference of the top of the container; and the internal cavity being situated from the first edge of the arm structure at a position which allows the top of the container to align directly underneath the internal cavity as the bottom of the container is placed on the base frame.

3. (previously presented) The handcart of claim 2 wherein the catch mechanism further comprises: the internal cavity extending through the upper surface of the arm structure and being bounded by the opposing second edge forming an orifice situated within the of the arm structure; the orifice having dimensions to accommodate the circumference of the top of the container; and the orifice being situated from the first edge of the arm structure at a position which allows the top of the container to align directly underneath the orifice as the bottom of the container is placed on the base frame.

4. (original) The handcart of claim 1 wherein the hand assembly further comprises: a pair of parallel spaced apart support members; the pair of support

9. (original) The handcart of claim 4 wherein the arm structure has a polygonal shape.
10. (previously presented) The hand cart of claim 1 wherein the bumper mechanism is a slight curvature within the opposite second edge of arm structure for contacting the neck of the container.
11. (original) The hand cart of claim 1 wherein the bumper mechanism is the opposite second edge of the arm structure.
12. (original) The handcart of claim 1 wherein the means for engaging and disengaging the catch mechanism further comprises: a lever mechanism situated at the upper end of the bar; and the lever operably connected through the interior of the bar to the first edge of the arm structure; the first edge of the arm structure being hingedly connected to exterior of the elongated bar such that the lever mechanism can raise and lower the arm structure along at least a thirty degree angle path to respectively engage and disengage the catch mechanism with the top of the container.
13. (original) The handcart of claim 1 wherein the means for engaging and disengaging the catch mechanism further comprises: a lever mechanism situated at the lower end of the bar; and the lever mechanism operably connected through the interior of the bar to the first edge of the arm structure; the first edge of the arm structure being hingedly connected to exterior of the elongated bar such that the lever mechanism can raise and lower the arm structure along at least a thirty degree angle path to respectively engage and disengage the catch mechanism with

the top of the container.

14. (original) The handcart of claim 1 wherein the means for engaging and disengaging the catch mechanism further comprises: a lever mechanism situated at the lower end of the bar; and the lever mechanism operably connected at an intermediate point to the upper surface of the arm structure; the first edge of the arm structure being hingedly connected to exterior of the elongated bar such that the lever mechanism can raise and lower the arm structure along at least a thirty degree angle path to respectively engage and disengage the catch mechanism with the top of the container.

15. (previously presented)The handcart of claim 1 wherein the catch mechanism further comprises: an U-shape slotted hook situated within the arm structure; and the U-shape slotted hook dimensioned to accommodate the circumference of the top of the container the U-shaped hook extending vertically from the side edge or the opposing side edge of the arm structure at a an intermediate position which allows the hook to engage the neck of the container as the bottom of the container is placed on the base frame.

16. (previously presented)The handcart of claim 15 wherein the means for engaging and disengaging the catch mechanism further comprises: the first edge of the arm structure being rotatably connected in a horizontal direction to exterior of the elongated bar such that the arm structure can rotate clockwise and

counterclockwise along at least a thirty degree angle path to respectively engage and disengage the catch mechanism with the top of the container.

17. (original) The handcart of claim 16 wherein the elongated bar member has a cylindrical shape.

18. (original) The hand cart of claim 1 wherein the elongated bar is formed from a sheet of rigid metal material with its vertical edges bent backward to form an opened back casing.

19. (original) The hand cart of claim 1 wherein the elongated bar is a hollow rectangular casing formed from a rigid metal material.

20. (currently amended) A method of lifting and transporting a container from an upright position, the method comprising: a. providing a hand cart with a base frame supporting a cradle connected to an elongated bar with a handle-hand assembly mounted upon the top, an arm structure with a catch mechanism and a bumper mechanism, and lever mechanism operable connected to the arm structure; b. placing the hand-cart with the elongated bar member perpendicular to the floor and parallel to the container with the arm structure aligned perpendicular to the top of the container; c. placing a hand on the hand assembly; d. placing the corresponding foot against the rear side of the bottom of the bar member; e. pushing the hand assembly forward such that the bumper mechanism of the arm

structure contacts the neck of the container tilting the bottom of the container at least thirty degrees; f. simultaneously with step e, pushing the base frame forward with the corresponding foot such that the base frame slides underneath the bottom of the container and the cradle engages the bottom of the container; g. pulling the lever mechanism to raise the arm structure to allow the container to sit upright on the base frame with the top of container aligned directly underneath the catch mechanism; and h. releasing the lever mechanism for the catch mechanism to engage the top the container.

21. (previously presented)A hand cart for lifting and transporting a container from an upright position, the hand cart comprising: a base frame having a rigid horizontal plate member supported by at least one wheel means for movement; a cradle for engaging the bottom of the container, the cradle being supported by the horizontal plate member of the base frame; an elongated bar being defined by an upper end and a lower end; the lower end being securely attached to the base frame and the cradle; an arm structure being defined by a first edge and an opposite second edge, the first edge being mounted to the exterior of the bar at an intermediate point, the intermediate point being at a position relative to the height of the container from the base frame, the arm structure extending outwardly from the first edge along its horizontal axis to a set distance to the opposite second edge; a bumper mechanism integrated into the opposite second edge at the set distance such that the neck of the container is contacted as the container is loaded onto the base frame; a catch mechanism within the arm structure; the catch

mechanism further comprising: an orifice situated within the of the arm structure and bounded by the opposite second edge; the orifice having dimensions to accommodate the circumference of the top of the container; and the orifice being situated from the first edge of the arm structure at a position which allows the top of the container to align directly underneath the orifice as the bottom of the container is placed on the base frame; a lever mechanism situated at the upper end of the bar; the lever operably connected through the interior of the bar to the first edge of the arm structure; the first edge of the arm structure being partially slideably mounted upon the exterior of the elongated bar wherein the lever mechanism can vertically lower and lift the arm structure to respectively engage and disengage the catch mechanism with the top of the container; and a hand assembly being mounted upon the upper end of the bar such that the hand-cart can be moved into a forward and backward position upon the wheel means.

22. (new) A hand cart for lifting and transporting a container with a tapering neck at its upper end, the hand cart comprising:

a base frame having at least one wheel means for movement; a cradle for engaging the bottom of the container, the cradle being supported by the base frame; an elongated bar being defined by an upper end and a lower end; the lower end being securely attached to the base frame and the cradle; an arm structure being defined by a first edge, an opposite second edges, a side edge, an opposing side edge, and an upper surface overlaying an underside portion; the first edge being mounted to the exterior of the bar at an intermediate point, the intermediate point being at a position relative to the height of the container

from the base frame, the arm structure extending outwardly from the first edge along its horizontal axis to a set distance to the opposite second edge; a bumper mechanism integrated into the opposite second edge at the set distance therein, the bumper mechanism for contacting the neck of the container causing the container to tilt forward as the container is loaded onto the base frame; a catch mechanism situated a predetermined distance from the opposite second edge within the arm structure; a means for engaging and disengaging the catch mechanism with the top of the container; and a hand assembly being mounted upon the upper end of the bar such that the hand-cart can be moved into a forward and backward position upon the wheel means; and the catch mechanism further comprises an internal cavity situated within the underside portion of the arm structure; the recess dimensioned to accommodate the circumference of the top of the container; and the internal cavity being situated from the first edge of the arm structure at a position which allows the top of the container to align directly underneath the internal cavity as the bottom of the container is placed on the base frame.

23. (new) A hand cart for lifting and transporting a container with a tapering neck at its upper end, the hand cart comprising:

a base frame having at least one wheel means for movement; a cradle for engaging the bottom of the container, the cradle being supported by the base frame; an elongated bar being defined by an upper end and a lower end; the lower end being securely attached to the base frame and the cradle; an arm structure being defined by a first edge, an opposite second edge, a side edge, an opposing side edge, and an

upper surface overlaying an underside portion; the first edge being mounted to the exterior of the bar at an intermediate point, the intermediate point being at a position relative to the height of the container from the base frame, the arm structure extending outwardly from the first edge along its horizontal axis to a set distance to the opposite second edge; a bumper mechanism integrated into the opposite second edge at the set distance therein, the bumper mechanism for contacting the neck of the container causing the container to tilt forward as the container is loaded onto the base frame; a catch mechanism situated a predetermined distance from the opposite second edge within the arm structure; a means for engaging and disengaging the catch mechanism with the top of the container; and a hand assembly being mounted upon the upper end of the bar such that the hand-cart can be moved into a forward and backward position upon the wheel means;

the catch mechanism further comprising:

an U-shape slotted hook situated within the arm structure; and the U-shape slotted hook dimensioned to accommodate the circumference of the top of the container the U-shaped hook extending vertically from the side edge or the opposing side edge of the arm structure at an intermediate position which allows the hook to engage the neck of the container as the bottom of the container is placed on the base frame; and

the means for engaging and disengaging the catch mechanism further comprising:

the first edges of the arm structure being rotatably connected in a horizontal direction to exterior of the elongated bar such that the arm structure can rotate clockwise and counterclockwise along at least a thirty degree angle path to

respectively engage and disengage the catch mechanism with the top of the container.

**OBJECTIONS****112 REJECTIONS**

**Regarding claim 2, the recess was amended to the cavity.**

**Regarding claim 3, applicant is unclear because claim states that cavity extend through to form an opening. Please provide further explanation.**

**Regarding claim 15, applicant is unclear because claim does not state encircle. The dimension of the U-shape hook is to accommodate the neck of the container. Please provide further explanation.**

**Regarding claim 20, claim 20 was amended to clarify the objection.**

**102 REJECTIONS**

Examiner noted that claims 1-3 & 6-11 were rejected as being anticipated by Burkett et al . The reference must describe every detail of the claimed invention. (See **Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed Cir. 1983)**). Additionally, the reference must adequately describe the claimed invention to put it in the public domain (See **In re Zenitz, 333 F2d 924, 142 USPQ 158, 160 (C.C.P.A. 1964)**). The description must enable a person with ordinary skill in the art not only to comprehend the invention but also make it. (See **Paperless Accounting, Inc v. Bay Area Rapid Transit Sys., 804 F.2d at 665, 231 USPQ at 653**) The reference must teach the claimed invention. (See **Ex parte Fujishiro, 199 USPQ 36 (Pat. Off Bd. App. 1977)**). Limitation in a preamble will be given patentable weight when they are necessary to give meaning to the claim and properly define the invention. (See **Perkin-Elmer Corp. V. Computer vision Corp., 732**

F.2d 888, 896, 221 USPQ 669, 675-76 (Fed. Cir.), cert. denied, 469 U.S. 857, 225 USPQ 792 (1984)).

*Here, Claim 1 was amended to provide further clarification of the required limitations. The bumper mechanism within the opposing side edge tilts the bottle forward as the container is slid onto the base frame. The arm structure in Burkett can not serve this function. The catch mechanism is bounded by the second opposing edge. In Burkett, 66 is removed and then fastened. Thus, fastener 66 is not integrated into the opposing edge and does not function as described in the specification of this application. In Burkett, the container is physically placed onto the cradle and then fastener 66 is attached as shown in FIG. 2. The base frame of Burkett can not be slid onto the bottom of the container. As shown in FIG. 3, 56 and 60 would stop the bottom of the container from being slid onto the cradle of Burkett. Additionally, the bumper mechanism disclosed in the application is a an integrated indentation in the opposing side edge. Burkett does not disclose an equivalent structure that can function as described in the application. Additionally, Perry does not anticipate claim 20 because the carrier in Perry is automated while our method requires the use of the foot. None of these steps are disclosed in Perry.*

### 103 REJECTIONS

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination (See *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990))

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination (See *In re Geiger*, 815 F2d 686, 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987)).

There must be some reason given the prior art why one of ordinary skill in the art would have been prompted to combine the teachings of the references to arrive at the claimed invention. (See *In re Regel* 188 USPQ

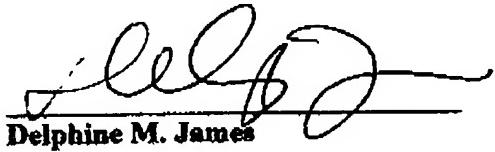
References that teach away cannot serve to create a prima facie case of obviousness. (See *In re Gurliey*, 27 F.3d 551, 553, 31 USPQ2d 1130 (Fed. Cir 1994)) In If references taken in combination would produce a "seemingly inoperative device", we have held that such references teach away from the combination and thus cannot serve as predicates for a prima facie case of obviousness. (See *In re Sponnoble*, 405 F.2d 578, 587, 160 USPQ 237, 244)

Obvious to try standard is an improper standard (See *In re Lindell*, 385 F.2d 453, 155 USPQ 521 (C.C.P.A. 1967)) It is impermissible to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. An obvious rejection cannot be based upon hindsight and the specific teaching must come from the prior art. (See *In re Fritch*, 972 F.2d 1260, 23 USPQ 2d 178, 1784 (Fed. Cir. 1992). The claimed invention must be considered as a whole.

*Here, there is no motivation to combine the lever in Griffith into the arm structure Burkett. Examiner has not provided a reason for modification of Burkett. Additionally, Burkett would be non-operational because the base frame of Burkett can not be slid onto the bottom of the container. As shown in FIG. 3, 56 and 60 would stop the bottom of the container from being slid onto the cradle of Burkett. Additionally, Burkett is used to load a gas container which has different structural requirements than a 5 gallon water container. Griffith is used for filing cabinets. The arm structure of all Griffith is structured differently than the arm structure disclosed in the application. The arm structure in Griffith goes into channels. The lever mechanism in the application partially*

*slides up and down. Additionally, there is no motivation in Burkett that shows a need for the arm structure to partially slide up and down. The arm structure in Griffith pivots to attach. Additionally, there is no recess in Griffin arm structure 28. 28 is a pressured vacuum. Thus, there is no teaching to combine the two prior art reference. Obvious to try is impermissible.*

Respectfully submitted:



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**CERTIFICATE OF TRANSMISSION**

I, Delphine James, hereby certify that the foregoing Response to the Office Action is being transmitted by Facsimile to 571-273-8100.

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